

Application No. : 10/707,733
Filed : January 8, 2004

REMARKS

Claims 17 – 38 were pending in the application. By this paper, Applicant has cancelled Claims 17 – 35 without prejudice, amended Claims 36 and 37, and added new Claims 39 – 58. Accordingly, Claims 36 – 58 are presented for examination herein.

Request-for-continued Examination (RCE)

Applicant submits concurrently herewith a request-for-continued examination (RCE) for the above-identified application.

§112 Rejections

1. Per page 2 of the Office Action, Claims 17 and 35 each stand rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Without substantively addressing these rejections, Applicant has herein cancelled Claims 17 – 35 without prejudice, thereby rendering the Examiner's rejection moot.

§103 Rejections

2. Per page 4 of the Office Action, Claims 17 – 20, 24 – 25, 30, 33 – 34 and 36 – 37 each stand rejected under 35 U.S.C. §103 as being unpatentable over Moshal et al. (U.S. Pub. No. 2001/0042041, hereinafter "Moshal") in view of Brown (U.S. Patent No. 5,794,219, hereinafter "Brown"). In response thereto, Applicant provides the following remarks:

Claims 17 – 35 – By this paper, Applicant has herein cancelled Claims 17 – 35 without prejudice, thereby rendering the Examiner's rejection under 35 U.S.C. § 103 moot.

Claim 36 – With regards to Claim 36, Applicant has herein amended Claim 36 so that it now recites in relevant part a recited method step of:

“...providing contact information for a bidding party of said accepted bid to said at least one of said plurality of potential buyers to enable direct communication with said bidding party of said accepted bid to complete the transaction.”

5 Applicant has amended Claim 36 in order to provide additional clarity to Applicant's Claim 36 invention. Support for Applicant's amendment can be found, *inter alia*, at paragraphs [0029] – [0030] of Applicant's specification as filed. Applicant respectfully submits that Claim 36 as presented herein distinguishes over the prior art, including the cited art of record.

Specifically, the Examiner concedes that Moshal does not explicitly teach providing
10 contact information for a bidding party of an accepted bid (see page 7 of the Office Action, first paragraph). The Examiner then alleges that this feature is taught by Brown. While Applicant concedes that Brown teaches an account company (which respectfully is not a buyer) using a bidder name and a bidder identification number of each winning bid record to match each winning bid record to a corresponding bidder, Applicant submits that Brown does not teach or
15 fairly suggest providing contact information for a bidding party of the accepted bid to at least one of the plurality of potential buyers as recited in Applicant's amended Claim 36.

Furthermore, it is Applicant's belief that Brown would not be motivated to transmit contact information for a bidding party to a potential buyer, as Brown teaches that the account company charges the bidder account *directly*. **See Col. 8, lines 52 – 55 of Brown.**

20 In addition, the main purpose of Brown is seemingly to permit individual bidders to pool bids during a bidding session (see Abstract of Brown), and accordingly there would be no need, in Applicant's opinion, for contact information for a bidding party to be provided to a potential buyer. As stated in Applicant's claim, the provision of contact information for a bidding party of the accepted bid to a potential buyer enables direct communication with the bidding party of the
25 accepted bid to complete the transaction.

Accordingly, based on the foregoing distinct bases, Applicant respectfully submits that Claim 36 as amended is both novel and non-obvious over the prior art, and is therefore in condition for allowance.

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New Claims

Claim 39 – By this paper, Applicant added new independent Claim 39. Support for this claim is replete throughout Applicant's specification as filed, including at, *inter alia*, paragraphs [0024] – [0030]. Accordingly, no new matter has been entered by virtue of this new Claim.

5 Applicant respectfully submits that Claim 39 distinguishes over the prior art, in that the prior art fails to teach or suggest providing contact information for a bidding party of an accepted bid to a potential buyer.

Claims 40 – 54 – By this paper, Applicant has added new dependent Claims 40 – 54.

10 Support for these claims are replete throughout Applicant's specification as filed, including at, *inter alia*, paragraphs [0024] – [0030]. In addition, these claims relate generally to the subject matter of previously submitted Claims 18 – 22, 24 – 32 and 34. Accordingly, Applicant submits that no new matter has been added by virtue of these new Claims, and they are rightfully examined herewith.

15 Applicant respectfully submits that Claims 40 – 54 distinguish over the prior art, in that they depend either directly or indirectly from new Claim 39.

Claim 55 – By this paper, Applicant has added new independent Claim 55. Support for this claim can be found at FIG. 2 and FIG. 6 as well as at, *inter alia*, paragraphs [0024] – [0030]
20 of Applicant's specification as filed. Accordingly, Applicant submits that no new matter has been added.

25 Applicant respectfully submits that new Claim 55 distinguishes over the prior art, in that the prior art fails to teach or suggest a computer server provides contact information to a user of a buyer interface module to enable direct communication with a user of a bidder interface module.

Claim 56 – By this paper, Applicant has added new Claim 56. Support for this new claim can be found at, *inter alia*, paragraph [0027] of Applicant's specification as filed. Accordingly, Applicant submits that no new matter has added.

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Applicant respectfully submits that new Claim 56 distinguishes over the prior art in that it depends from Claim 55.

5 **Claim 57** – By this paper, Applicant has added new Claim 57. Support for this new claim can be found at, *inter alia*, FIG. 2 of Applicant's specification as filed (see e.g. "Additional Requests or Comments" field). Accordingly, Applicant submits that no new matter has been added.

Applicant respectfully submits that new Claim 57 distinguishes over the prior art in that it depends from Claim 55.

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Claim 58 – By this paper, Applicant has added new Claim 58. Support for this new claim is replete throughout Applicant's specification as filed. Accordingly, Applicant submits that no new matter has been added.

15 Applicant respectfully submits that new Claim 58 distinguishes over the prior art in that it depends from Claim 55.

Other Remarks

20 Applicant hereby specifically reserves all rights of appeal (including those under the Pre-Appeal Brief Pilot Program), as well as the right to prosecute claims of different scope in another continuation or divisional application.

25 Applicant notes that any claim cancellations or additions made herein are made solely for the purposes of more clearly and particularly describing and claiming the invention, and not for purposes of overcoming art or for patentability. The Examiner should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant's position with respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by the Examiner, based on such cancellations or additions.

Furthermore, any remarks made with respect to a given claim or claims are limited solely to such claim or claims.

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If the Examiner has any questions or comments which may be resolved over the telephone, he is requested to call the undersigned at (858) 675-1670.

Respectfully submitted,

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